

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS ON)	Civil Action No.
SEPTEMBER 11, 2001)	03 MDL 1570 (GBD) (SN)
)	ECF Case
)	

This document relates to:

Ashton, et al. v. Kingdom of Saudi Arabia, No. 17-cv-02003
Ashton, et al. v. al Qaeda, et al., No. 02-cv-6977

**ATTORNEY’S DECLARATION IN SUPPORT OF THE ASHTON PLAINTIFFS’
MOTION TO SUPPLEMENT THE RECORD WITH NEWLY DISCOVERED FACTS**

Steven R. Pounian, Esq., hereby states under penalty of perjury that:

1. I am an attorney with the firm of Kreindler & Kreindler and respectfully submit this declaration in support of the motion of the *Ashton* plaintiffs to supplement the record in opposition to the pending motion to dismiss of the Kingdom of Saudi Arabia (“KSA”).

2. I am personally familiar with the research conducted by my office to obtain the publicly available court records concerning Omar Abdi Mohamed (“Abdi Mohamed”), an employee of the KSA in California from 1995 through 2003. We respectfully refer the Court to our prior motion papers and the oral argument which address plaintiffs’ allegations regarding Abdi Mohamed, Fahad Thumairy (“Thumairy”), Omar Bayoumi, Khalid Sowailem and their employer, the KSA.

3. Our prior motion papers included public records from the 2004 federal criminal prosecution of Abdi Mohamed in the Southern District of California. ECF 3780 at 13-17, ¶¶ 30, 34-37.

4. Prior to completing our opposition to the motion that was filed in November 2017, my office contacted the U.S. Attorney’s Office for the Southern District of California

regarding the 2003 federal prosecution of Abdi Mohamed in the Southern District of California. We located the criminal court docket for Abdi Mohamed and reviewed all the documents and filings publicly available at that time. Having done so, and understanding that the only prosecution Abdi Mohamed faced was for immigration fraud, we believed that we had obtained all of the publically available court documents concerning Abdi Mohamed.

5. This past Tuesday, however, we discovered for the first time that there were additional records filed by the U.S. government concerning Abdi Mohamed in a separate 2004 civil habeas corpus proceeding brought by Abdi Mohamed, also in the Southern District of California, to challenge his detention by Immigration and Custom Enforcement. Those records were filed in a civil docket that was not linked to the criminal docket, and the civil habeas proceeding was not referenced in the criminal docket.

6. Those U.S. government records include two exhibits referenced below that contain facts not previously raised before the Court that we believe are relevant to plaintiffs' opposition to the KSA's motion and plaintiffs' request for jurisdictional discovery.

7. Specifically, Exhibit 1 is the April 2004 U.S. government brief filed by Immigration and Customs Enforcement in response to Abdi Mohamed's bond request. That brief states that documents seized in the government's investigation of Abdi Mohamed show that he

has not only been paid over \$100,000 for his employment with the Saudi Arabian government, but that he has been specifically "tasked" by the Saudi Arabian government in intelligence gathering missions in his employment as a "propagator" for that government.

Id. at 4.

8. In addition, that same brief states that “[d]ue to concerns of diplomatic relations, [Abdi Mohamed] is not being prosecuted criminally for his violation of 18 USC § 951, Failure to Register as a Foreign Agent.” *Id.*

9. Exhibit 2 is the April 2004 Report of Investigation prepared by the Department of Treasury, U.S. Customs Office concerning the translation of documents seized from Abdi Mohamed’s home. That Report states that the vast majority of documents were on the KSA’s letterhead, specifically “the Kingdom of Saudi Arabia, Ministry of Islamic Affairs, Endowments, Da’wah and Da’wah Guidance Office in America, 601 New Hampshire Avenue, Northwest, Washington, D.C. 20037.”

10. The Treasury Report references a January 17, 1998 KSA government document which states that “the Director of Da'wah for Europe, America and Australia has appointed Sheik Fahd bin Ibrahim Al-Thumairi to oversee the propagators working in the State of California.” Sheik Fahd bin Ibrahim Al-Thumairi is an alternate English spelling of Fahad Ibrahim al Thumairy.

Dated: New York, New York
March 9, 2018

/s/ Steven R. Pounian
Steven R. Pounian